

# PAUL F. RICE, ATTORNEY

PO Box 277, Jackson, TN 38305

ph. (731) 554-9200, ext. 235

November 7, 2005

Chairman Ron Jones  
c/o Sharla Dillon  
Tennessee Regulatory Authority  
460 James Robertson Pkwy.  
Nashville, TN 37243-8359

RECEIVED  
2005 NOV 21 PM 3:31  
T.R.A. DOCKET ROOM

05-00315

RE: Aeneas Communications, LLC; Petition for Designation as an Eligible Telecommunications Carrier for purposes of Lifeline and Linkup Programs.

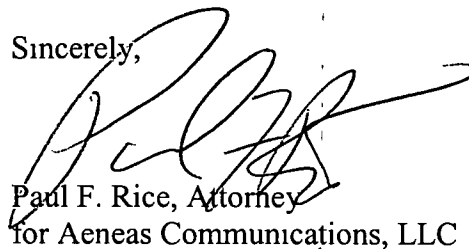
Dear Chairman Jones,

I am enclosing an original and thirteen copies of the above petition, and I will also submit required proprietary financial information for filing under seal in a separate envelope.

(Aeneas has already been designated an ETC for the Rural Health and Schools and Libraries programs.)

If we need to provide additional information, please advise. Thank you.

Sincerely,



Paul F. Rice, Attorney  
for Aeneas Communications, LLC

Before the  
TENNESSEE REGULATORY AUTHORITY

In Re: Petition of )  
Aeneas Communications, Inc )  
For Designation as an Eligible )  
Telecommunications Carrier )

Docket No. \_\_\_\_\_

PETITION FOR DESIGNATION AS AN ELIGIBLE TELECOMMUNICATIONS  
CARRIER IN THE STATE OF TENNESSEE  
(NO RURAL REDEFINITION REQUESTED)

Aeneas Communications, LLC. (“Aeneas Communications” or the “Company”), pursuant to Section 214(e)(2) of the Communications Act of 1934, as amended (the “Act”)<sup>1</sup> and Sections 54.101 through 54.207 of the Rules of the Federal Communications Commission (“FCC”)<sup>2</sup>, hereby petitions the Tennessee Regulatory Authority (“Authority”) for designation as an Eligible Telecommunications Carrier (“ETC”) in certain BellSouth exchanges as described herein (“Designated Area”) for the purpose of receiving federal universal service support. As demonstrated below, Aeneas Communications satisfies all of the statutory and regulatory requirements for designation as an ETC in the Designated Area. Furthermore, designation of Aeneas Communications in the Designated Area will serve the public interest. Accordingly, Aeneas Communications respectfully requests that the Authority grant this Petition.

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<sup>1</sup> 47 U S C § 214(e)(2)

<sup>2</sup> 47 C F R §§ 54 101-54 207

## **I. Background**

1. Aeneas Communications is a Tennessee limited liability company<sup>3</sup> and is authorized to conduct business in the State of Tennessee.<sup>4</sup> Copies of the Company's Articles of Organization and authority to transact business in the State of Tennessee are on file with the Authority and incorporated herein by reference.<sup>5</sup> The Company has been certified by the Authority to provide Competing Facilities-Based Local Exchange Telecommunications Services in the State of Tennessee (Docket No. 99-00415). The principal office of the Company is located at 300 North Cumberland Street Suite 200, P. O. Box 277, Jackson, Tennessee 38301. The Company provides local exchange and exchange access services in BellSouth exchanges using a combination of unbundled network elements ("UNEs") provided by BellSouth that allows end-to-end switching delivery of calls as well as over fiber optic cable provided by the Jackson Energy Authority.
2. As set forth in Section 214(e)(2) of the Act, the Authority "shall upon its own motion or upon request designate a common carrier that meets the requirements of [Section 214 (e)(1)] as an eligible telecommunications carrier for a service area designated by the State commission."<sup>6</sup> Upon

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<sup>3</sup>Aeneas Communications qualified to do business in the State of Tennessee as an LLC in 1999

<sup>4</sup>Tennessee Secretary of State's Office Control No 0369265

<sup>5</sup>See Exhibit A to Application of Aeneas Communications, Inc in Docket No 99-00415

<sup>6</sup>47 U S C § 214(e)(2), *see* 47 C F R § 54 201 (b) (FCC Rules citing the Act's requirements)

designation as an ETC, the carrier shall be eligible to receive universal support in accordance with Section 254 of the Act.<sup>7</sup>

3. The requirements for designation as an ETC set forth in Section 214 (e)(1) are that the carrier must
  - (A) offer the services that are supported by Federal universal support mechanisms under section 245 (c), either using its own facilities or a combination of its own facilities and resale of another carrier's services (including the services offered by another eligible telecommunications carrier); and
  - (B) advertise the availability of such services and the charges therefore using the media of general distribution.<sup>8</sup>

## **II. Aeneas Communications Satisfies the Requirements for Designation as an ETC to Serve the Designated Area**

4. Aeneas Communications is a common carrier as that term is defined in the Act.<sup>9</sup> The Company provides competitive local telecommunications services in the state of Tennessee in accordance with Certificate 99-00415 and TN Tariff No. 1, which was first issued August 1, 2002 with an effective date of September 1, 2002,<sup>10</sup> and certain terms of service and use found on the Aeneas website, [www.aeneas.net](http://www.aeneas.net).

5. Aeneas Communications offers all of the supported services enumerated under Section 254(c) using facilities obtained as UNEs from BellSouth or from the Jackson Energy Authority. According to FCC Rules, facilities obtained as UNEs satisfy the requirement that an ETC provide the supported services using either its

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<sup>7</sup> 47 U.S.C. § 214(e)(1)

<sup>8</sup> *Id*

<sup>9</sup> See 47 U.S.C. § 153(10) ("the term 'common carrier' or 'carrier' means any person engaged as a common carrier for hire, in interstate or foreign communication by wire or radio or in interstate or foreign radio transmission of energy")

<sup>10</sup> The Company also has been certified by the Authority to resell intrastate, interLATA direct dialed telecommunications services throughout the State of Tennessee. Tariffs are on file with the Authority

own facilities or a combination of its own facilities and resale of another carrier's services.<sup>11</sup> Accordingly, the Company satisfies the requirement set forth in Section 214(e)(1)(A).

6. The services that are supported by Federal universal support mechanisms under section 254(c) are enumerated in the rules of the Federal Communications Commission ("FCC") at 47 C F R. §54.101(a)(1)-(9). These services are:

- a) Voice grade access to the public switched network. "Voice grade access" is defined as a functionality that enables a user of telecommunications services to transmit voice communications, including signaling the network that the caller wishes to place a call, and to receive voice communications, including receiving a signal indicating there is an incoming call. For the purposes of this part, bandwidth for voice grade access should be, at a minimum, 300 to 3,000 Hertz;
  - b) Local usage. "Local usage" means an amount of minutes of use of exchange service, prescribed by the FCC, provided free of charge to end users;
  - c) Dual tone multi-frequency signaling or its functional equivalent.
- "Dual tone multi-frequency" (DTMF) is a method of signaling that

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<sup>11</sup> Section 54 201(f) of the FCC's Rules states, "[f]or the purposes of this section, the term 'own facilities' includes, but is not limited to, facilities obtained as unbundled network elements pursuant to Part 51 of this chapter, provided that such facilities meet the definition of the term 'facilities' under this subpart" 47 C F R § 54 201 (f) The term "facilities" under Section 54 201 is defined as "any physical components of the telecommunications network that are used in the transmission or routing of the services that are designated for support pursuant to subpart B of this part" 47 C F R § 54 201(e) Aeneas Communication's use of BellSouth's UNEs meets this definition of "facilities"

facilitates the transportation of signaling through the network,  
shortening call set-up time;

- d) Single-party service or its functional equivalent. “Single-party service” is telecommunications service that permits users to have exclusive use of a wireline subscriber loop or access line for each call place, or, in the case of wireless telecommunications carriers, which use spectrum shared among users to provide service, a dedicated message path for the length of a user’s particular transmission;
- e) Access to emergency services. “Access to emergency services” includes access to services, such as 911 and enhanced 911, provided by local governments or other public safety organizations. 911 is defined as a service that permits a telecommunications user, by dialing the three-digit code “911”, to call emergency services through a Public Service Access Point (PSAP) operated by the local government. “Enhanced 911” is defined as 911 service that includes the ability to provide automatic numbering information (ANI), which enables the PSAP to call back if the call is disconnected, and automatic location information (ALI), which permits emergency service providers to identify the geographic location of the calling party. “Access to emergency services” includes access to 911 and enhanced 911 services to the extent the local government in an eligible carrier’s service area has implemented 911 or enhanced 911 systems;

- f) Access to operator services. “Access to operator services” is defined as access to any automatic or live assistance to a consumer to arrange for billing or completion, or both, of a telephone call;
- g) Access to interexchange service. “Access to interexchange service” is defined as the use of the loop, as well as that portion of the switch that is paid for by the end user, or the functional equivalent of these network elements in the case of a wireless carrier, necessary to access an interexchange carrier’s network;
- h) Access to directory assistance. “Access to directory assistance” is defined as access to a service that includes, but is not limited to, making available to customers, upon request, information contained in directory listings; and
- i) Toll limitation for qualifying low-income consumers.

7. Upon designation as an ETC, Aeneas Communications will participate in, and offer, LifeLine and Link-Up programs to qualifying low-income consumers and publicize the availability of LifeLine and Link-Up services in a manner reasonably designed to reach those likely to qualify for those services, as required by FCC Rules.<sup>12</sup> Attached hereto as Exhibit B and incorporated herein by reference are copies of Aeneas Communication’s proposed LifeLine and Linkup tariff to be filed with the Authority upon approval.

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<sup>12</sup> See 47 C F R §§ 54 401-54 417, 54 405(b)& 54 411(d)

8. Aeneas Communications will advertise the availability of the above-referenced services and the charges for those services in the Designated Area using media of general distribution, as required by FCC Rules.<sup>13</sup>

9. Attached as Exhibit C and incorporated herein by reference are Aeneas Communication's updated financial statements demonstrating that the Company has the financial qualifications to provide the services specified herein. Aeneas Communications has previously provided the Authority with evidence of its financial capabilities to provide the supported services in the context of its application to become certified as a CLEC in Docket No 99-00415. The financial statements of Aeneas Communications contain proprietary and confidential and are being submitted under seal to be maintained by the Authority and Authority staff on a confidential basis pursuant to the Authority's current rules.

10. Attached as Exhibit D and incorporated herein by reference is a current list of officers. Aeneas Communications has previously provided the Authority with evidence of its managerial and technical capabilities to provide the supported services in the context of its application to become certified as CLEC in Docket No. 99-00415.

11. Attached as Exhibit E to this Petition and incorporated herein by reference is the testimony of Jonathan Harlan, owner and CEO of Aeneas Communications certifying that the Company satisfies all of the requirements for designation as an ETC to serve the Designated Area.

### **III. Area for Which ETC Designation is Requested**

12. Aeneas Communications has served and will continue to serve the exchanges where it leases UNEs or resells the services of the non-rural telephone

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<sup>13</sup> See 47 C F R §§ 54.201(d)(2)



company, BellSouth, in the state of Tennessee. Aeneas Communications does not seek designation as an ETC in any area served by rural telephone companies. The exchanges in the BellSouth service areas that Aeneas Communications serves and for which it seeks ETC designation are attached as Exhibit F.

#### **IV. Granting Aeneas Communication's Petition will Serve the Public Interest**

13. Congress requires that the Authority grant competitive ETC petitions in non-rural areas.<sup>14</sup> No specific public interest test is mentioned, as is the case for areas served by rural telephone companies.<sup>15</sup> Thus, the Act provides that the Authority "shall" designate Aeneas Communications an ETC upon finding that the company meets the nine-point list of services and that it agrees to advertise the supported services throughout the designated service area. Notwithstanding, the designation of Aeneas Communications as an ETC will serve the public interest.

14. A central purpose of the Telecommunications Act of 1996 was to "promote competition and reduce regulation . [thereby securing] lower prices and higher quality services . . . and encourage the rapid deployment of new telecommunications technologies."<sup>16</sup> Designation of Aeneas Communications as an ETC would further these goals. Granting ETC status to Aeneas Communications would allow the Company to obtain federal universal service support, which it will use to offer innovative telecommunications services at competitive prices to poor consumers and rural consumers in BellSouth service areas, including VoIP services to low income high rise inter-city housing in Jackson, Tennessee.

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<sup>14</sup> See 47 U S C 214(e)(2)

<sup>15</sup> See *Id*

<sup>16</sup> The Telecommunications Act of 1996, Pub L No 104-104, 110 Stat 56, 56 (1996)

15. Aeneas Communications will announce and advertise telecommunications services as an ETC where it provides service in the BellSouth service areas in Tennessee and will publicize the availability of Lifeline and Link-Up services in a manner reasonably designed to reach those likely to qualify for those services. Accordingly, more low-income Tennessee residents will be made aware of the opportunities afforded to them under the Lifeline and Link-Up programs and will be able to take advantage of those opportunities by subscribing to Aeneas Communication's service.

For the foregoing reasons, Aeneas Communications respectfully requests that the Authority grant its petition and designate the Company as an ETC for the BellSouth exchanges specified herein.

Respectfully submitted,

By: 

Jonathan V. Harlan, CEO

Aeneas Communications, LLC

November 7, 2005

**EXHIBIT A**

**COPY OF ARTICLES OF ORGANIZATION**

**ARTICLES OF ORGANIZATION  
OF  
AENEAS COMMUNICATIONS, LLC**

**A TENNESSEE LIMITED LIABILITY COMPANY**

**FILED**

The undersigned acting as organizer of a Limited Liability Company under the provisions of the Tennessee Limited Liability Company Act, §48-201-101 et seq, adopt the following Articles of Organization:

1. The name of the Limited Liability Company is **AENEAS COMMUNICATIONS, LLC**
  
2. The name and address of the Limited Liability Company's initial registered office in Tennessee is  
  

|  |  |
|--|--|
| <u>Mailing Address</u><br>AENEAS COMMUNICATIONS, LLC<br>301 S Church Street<br>Jackson, TN 38301<br>Madison County | <u>Initial Registered Agent</u><br>Jonathan V Harlan |
|--|--|
  
3. The name of the organizer is C Jerome Teel, Jr  
14 Weatherford Sq.  
Jackson, TN 38305
  
4. At the date and time of formation there are two (2) or more members.
  
5. The Limited Liability Company will be Member Managed.
  
6. The number of members at the date of filing is two (2).
  
7. The complete address of the Limited Liability Company's principal office is:  
  
301 S. Church Street  
Jackson, TN 38301  
Madison County, TN
  
8. A member may be expelled at any time by consent of a majority in interest of all the members at the time of such expulsion, inclusive of the voting power of the member whose expulsion is sought
  
9. No member or party to a contribution agreement or a contribution allowance agreement shall have preemptive rights.
  
- 10 Pursuant to T C A § 48-245-101 (b)(1), this LLC shall not be dissolved and shall not be required to be wound up by reason of any event that terminates the continued membership of a member if there are at least two (2) remaining members and the existence and business of the LLC is continued by the consent of a majority in interest of the remaining members

4-7-99

DATE

C. Jerome Teel, Jr.  
C. JEROME TEEL, JR.

State of Tennessee, County of MADISON  
Received for record the 15 day of  
NOVEMBER 1999 at 3:35 PM. (RECH 23831)  
Recorded in Book CH38 pages 199- 199  
State Tax \$ .00 Clerks Fee \$ .00,  
Recording \$ 7.00, Total \$ 7.00,  
Register of Deeds CURTIS WHITE  
Deputy Register LINDA WALDON

## **EXHIBIT B**

### **PROPOSED TARIFF**

**(Similar language to be found in Aeneas Terms of Use and Service at  
[www.aeneas.net](http://www.aeneas.net) )**

**CHECK SHEET**

Sheets 1 through 42, inclusive of this tariff, are effective as of the date shown at the bottom of the respective sheet(s) Original and revised sheets as named below comprise all changes from the original tariff and are currently in effect as of the date on the bottom of this sheet

| <u>Sheet</u> | <u>Revision Level</u>    | <u>Sheet</u> | <u>Revision Level</u>    |
|--------------|--------------------------|--------------|--------------------------|
| 1            | Original                 | 27           | 2 <sup>nd</sup> Revision |
| 2            | 6 <sup>th</sup> Revision | 27 1         | 1 <sup>st</sup> Revision |
| 2 1          | Original                 | 28           | 1 <sup>st</sup> Revision |
| 3            | 1 <sup>st</sup> Revision | 28 1         | 3 <sup>rd</sup> Revision |
| 4            | 1 <sup>st</sup> Revision | 28 2         | 1 <sup>st</sup> Revision |
| 5            | Original                 | 28 3         | 3 <sup>rd</sup> Revision |
| 6            | 1 <sup>st</sup> Revision | 28.4         | 2 <sup>nd</sup> Revision |
| 7            | 1 <sup>st</sup> Revision | 29           | 5 <sup>th</sup> Revision |
| 8            | 1 <sup>st</sup> Revision | 30           | 1 <sup>st</sup> Revision |
| 9            | 2 <sup>nd</sup> Revision | 30 1         | 1 <sup>st</sup> Revision |
| 9.1          | Original                 | 31           | 5 <sup>th</sup> Revision |
| 10           | 1 <sup>st</sup> Revision | 32           | 4 <sup>th</sup> Revision |
| 10 1         | Original                 | 33           | 3 <sup>rd</sup> Revision |
| 11           | 1 <sup>st</sup> Revision | 34           | 4 <sup>th</sup> Revision |
| 12           | 1 <sup>st</sup> Revision | 35           | 1 <sup>st</sup> Revision |
| 13           | 1 <sup>st</sup> Revision | 36           | 1 <sup>st</sup> Revision |
| 14           | 2 <sup>nd</sup> Revision | 37           | 1 <sup>st</sup> Revision |
| 15           | 1 <sup>st</sup> Revision | 38           | 1 <sup>st</sup> Revision |
| 16           | 1 <sup>st</sup> Revision | 39           | 5 <sup>th</sup> Revision |
| 17           | 1 <sup>st</sup> Revision | 39 1         | 4 <sup>th</sup> Revision |
| 18           | 3 <sup>rd</sup> Revision | 39.2         | 2 <sup>nd</sup> Revision |
| 19           | 1 <sup>st</sup> Revision | 40           | Original                 |
| 20           | 1 <sup>st</sup> Revision | 41           | Original                 |
| 20 1         | Original                 | 42           | Original                 |
| 21           | 1 <sup>st</sup> Revision |              |                          |
| 21 1         | 3 <sup>rd</sup> Revision |              |                          |
| 21 2         | 2 <sup>nd</sup> Revision |              |                          |
| 22           | 1 <sup>st</sup> Revision |              |                          |
| 23           | 1 <sup>st</sup> Revision |              |                          |
| 24           | 1 <sup>st</sup> Revision |              |                          |
| 24 1         | Original                 |              |                          |
| 25           | 1 <sup>st</sup> Revision |              |                          |
| 25.1         | 2 <sup>nd</sup> Revision |              |                          |
| 26           | 2 <sup>nd</sup> Revision |              |                          |
| 26 1         | 1 <sup>st</sup> Revision |              |                          |

## SECTION 7 - LIFELINE AND LINKUP

### 7.1 Applicability

Lifeline discounts are applicable to local exchange services provided to eligible residential Applicants

### 7.2 Territory

Within the base rate areas of all Bellsouth exchanges as shown and defined in the Incumbent LECs current and effective Tariffs on file with the Commission

### 7.3 Discounts

Lifeline is provided as a reduction of the subscriber's access line rate for local service in amounts equal to the sum of the federal baseline support credit, the company credit (as provided by any incumbent LEC) and the supplemental federal support credit

### 7.4 Terms and Conditions

A. Lifeline is provided only to the customer's principle residence

B. One low-income credit is available per household and applicable to the primary residential connection only. The named subscriber must be a current recipient of any of the low-income assistance programs identified in 5 following.

C. Proof of eligibility in any of the qualifying low-income assistance programs should be provided to the Company at the time of application for service. The Lifeline credit will not be established until the Company has received proof of eligibility

D. When, for any reason, a customer is determined to be ineligible the Company will contact the customer. If the customer cannot provide eligibility documentation, the Lifeline account will be disconnected

E. Certification of eligibility in any of the qualifying low-income assistance programs will be required for any account that has been disconnected prior to the reestablishment of the service

### 7.5 Eligible low-income assistance programs

The eligible low income assistance programs are the same as those defined in the incumbent LEC's current and effective tariffs on file with the Authority

### 7.6 Link Up

A. Link-up is a connection assistance program, which provides for the reduction of applicable charges associated with connection of telephone service

B. The applicant must meet the requirements for qualification for Lifeline Telephone Service

**EXHIBIT C**

**FINANCIAL INFORMATION HAS BEEN SUBMITTED  
CONTEMPORANEOUSLY UNDER SEAL**



## **EXHIBIT D**

### **OFFICERS**

Jonathan V. Harlan is CEO of Aeneas Communications, LLC and along with Fiona Harlan, Secretary, they own 100% interest of the business. Aeneas began as an ISP in a closet in an insurance agency, and has grown to be Tennessee's only privately owned facilities based ISP/CLEC and the first large scale provider of VoIP service. Aeneas is authorized to provide CLEC services anywhere in Tennessee and currently operates in almost every county in Western Tennessee. Throughout this period of growth, Aeneas has retained the same switch manager, programming director, and operations management.

**EXHIBIT E**

**TESTIMONY OF JONATHAN V. HARLAN, CEO**

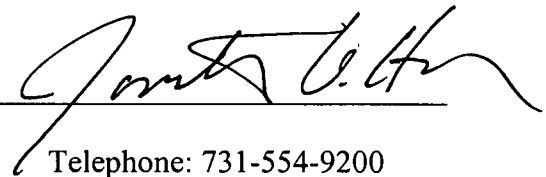
State of Tennessee

County of Madison

I, Jonathan Harlan, certify that I am the company officer responsible for this request and that I have examined the foregoing request. To the best of my knowledge, information and belief, all statements of fact contained in said request are correct statements of the business and affairs of the requesting carrier with respect to each and every matter set forth.

This the 9<sup>th</sup> day of November, 2005.


Signature: \_\_\_\_\_

  
Telephone: 731-554-9200

Sworn to and subscribed before me, a notary public, on this the 9<sup>th</sup> day of November, 2005.

My commission expires: \_\_\_\_\_

4/21/2009



Notary Public



**EXHIBIT F**

**SERVICE AREA EXCHANGES FOR WHICH ETC DESIGNATION IS SOUGHT**

| <b>NPA</b> | <b>NXX</b> | <b>RATECENTER</b> | <b>SWITCH</b> |
|------------|------------|-------------------|---------------|
| 731        | 403        | BOLIVAR           | JCSNTNGE00T   |
| 731        | 436        | BELLS             | JCSNTNGE00T   |
| 731        | 480        | GREENFIELD        | JCSNTNGE00T   |
| 731        | 520        | HENDERSON         | JCSNTNGE00T   |
| 731        | 554        | HENDERSON         | JCSNTNGE00T   |
| 731        | 558        | CAMDEN            | JCSNTNGE00T   |
| 731        | 562        | HUMBOLDT          | JCSNTNGE00T   |
| 731        | 585        | BROWNSVL          | JCSNTNGE00T   |
| 901        | 591        | MEMPHIS           | JCSNTNGE00T   |
| 731        | 597        | RIPLEY            | JCSNTNGE00T   |
| 901        | 622        | COVINGTON         | JCSNTNGE00T   |
| 731        | 625        | HUNTINGDON        | JCSNTNGE00T   |
| 731        | 651        | LEXINGTON         | JCSNTNGE00T   |
| 731        | 653        | PARIS             | JCSNTNGE00T   |
| 731        | 654        | SAVANNAH          | JCSNTNGE00T   |
| 731        | 698        | UNION CITY        | JCSNTNGE00T   |
| 731        | 713        | SELMER            | JCSNTNGE00T   |
| 731        | 809        | TIPTONVL          | JCSNTNGE00T   |
| 731        | 810        | DECATURVL         | JCSNTNGE00T   |
| 901        | 813        | SOMERVILLE        | JCSNTNGE00T   |
| 731        | 894        | DYERSBURG         | JCSNTNGE00T   |